

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBERT EUGENE MEREDITH,

Petitioner,

v.

BRIAN BELLEQUE,

Respondent.

Civ. No. 04-762-TC

ORDER

Aiken, Judge:

Magistrate Judge Coffin issued his Findings and Recommendation in the above-captioned action on August 25, 2006. Magistrate Judge Coffin recommends that equitable tolling should be applied to petitioner's filing and that his petition - filed thirty-three days after the expiration of the limitations period - should be allowed to proceed. Magistrate Judge Coffin found that petitioner had pursued his rights diligently and that his counsel's failure to return a voluminous set of transcripts prevented petitioner from

filing his petition in a timely manner. The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).


When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981).

Respondent has filed timely objections to the Findings and Recommendation. Upon de novo review, I find no error and agree that petitioner diligently pursued his rights, and that under the circumstances petitioner is entitled to equitable tolling during some, if not all, of the time that he requested but did not receive the transcripts from counsel. See Espinoza-Matthews v. California, 432 F.3d 1021, 1027 (9th Cir. 2005).

THEREFORE, IT IS HEREBY ORDERED that Magistrate Judge Coffin's Findings and Recommendation (doc. 48) filed August 25, 2006, is ADOPTED, and this case is allowed to proceed.

IT IS SO ORDERED.

Dated this 16 day of February, 2007.



Ann Aiken
United States District Judge